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Consent Decree Public Meeting

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10 DATE: Wednesday, February 27, 2013

11 TIME: 6:08 p.m.

12 PLACE: Stephen Foster Elementary School
13 3800 Northwest 6th Street
Gainesville, Florida 32609

14

15 REPORTER: Julia E. Griffin
Notary Public, State of
16 Florida at Large

17 APPEARANCES:

18 CAROLINE PHILSON, ESQUIRE	CHERYL L. SMOUT, ESQUIRE
Associate Reginal Counsel	U.S. Dept. of Justice
19 U.S. EPA	Washington, D.C.
61 Forsyth Street, SW	
20 Atlanta, GA 30303-8960	

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1 THEREUPON, the following meeting was had:

2 MS. PHILSON: Hi, if you'll could come on in,
3 we want to get started. We want to be mindful of
4 your time this evening. And just to get started,
5 if you could remember to silence your phones at
6 this point, that would be lovely.

7 My name is Caroline Philson, and I am the
8 associate regional counsel for U.S. EPA, which
9 means I'm the site attorney for this site. I don't
10 spend a lot time talking into a mike. I'm not going
11 to be spending a lot of time talking into the mike
12 tonight. So if there is some problem with you
13 being able to hear me, you know, please just shout
14 or raise your hand. You can't hear me? Is that
15 better?

16 AUDIENCE MEMBER: That's better, and speak a
17 little bit more slowly.

18 MS. PHILSON: My name is Caroline Philson,
19 and I'm the site attorney for the United States
20 Environmental Protection Agency. And I am pleased
21 to see that you all came out tonight. We expect,
22 you know -- we know people are just getting off
23 work, people will be coming in through the meeting.
24 But I wanted to go ahead and get started as close
25 to time as possible, especially because we have a

1 court reporter here for two hours. We want to
2 utilize her time to the best of our ability.

3 But this meeting is because, as you all know,
4 residents, neighbors, local folks interested in
5 what's going on here, the Kopper Superfund site has
6 a long history, which I won't go through all of
7 here. But we are now moving forward with the
8 litigation end of things. And we have a consent
9 decree which we have lodged before a local judge.
10 And by law, the Department of Justice, when they
11 lodge a consent decree opens a public comment
12 period by putting up a notice in the Federal
13 Register.

14 Well, the EPA has worked, again, in this
15 community for many years now. We wanted to be sure
16 we gave you the opportunity to also make a comment
17 on the record. Now, understand that's not one or
18 the other. But some people prefer not to write,
19 don't email, want to make a comment on the record
20 that will be recorded and sent to the judge along
21 with the Department of Justice and EPA's combined
22 responses. We wanted to give you the opportunity
23 to make your comment about the consent decree which
24 is now sitting in front of a Federal judge on the
25 record.

1 So to that end, I have a couple of
2 introductions. But I wanted to tell you the
3 University of Florida has a TV crew that they've
4 sent down here, as well as attorney Paul Rothstein
5 has a videorecorder that he's commissioned for this
6 meeting. Obviously, if you come to the mike, your
7 comments are going to be recorded on the public
8 record.

9 We have a stenographer, Julia, right up here,
10 she may ask you to state your name or restate your
11 name or speak more clearly. If you choose to not
12 be on camera, that is fine. We just ask you to
13 come in line and stand beside the camera and one of
14 us will walk the mike over to you and the
15 University of Florida folks won't record you if
16 you're also standing just off the camera range.

17 So let me introduce to you a couple of my
18 colleagues. First of all, this is Cheryl Smout
19 from the United States Department of Justice. The
20 Department of Justice is the Nation's litigators.
21 Anytime we are in a court of law, anytime we are
22 pleading, making claim in front of a judge, the
23 Department of Justice is there. So they were our
24 partners in negotiating this matter.

25 My colleague, L'Tonya Spencer, who you may

1 have seen before. She's the community involvement
2 coordinator, so for the community involvement plan,
3 for door-to-door doing things with neighbors,
4 getting consents to access people's properties.
5 She's been down here before, you may recognize her.

6 My colleague, Scott Miller, who is the
7 technical expert on the site. He's the site's
8 remedial project manager. So I may from time to
9 time hand the mike to them for them to answer
10 something that's a technical point or a community
11 involvement point, obviously Sharon the legal
12 points.

13 Again, this meeting is not for us to talk,
14 this meeting is for you to talk and make your
15 comments. So Cheryl and I will be here to the
16 extent that you have any questions about the
17 consent decree process in general or something
18 specific in this consent decree or what's
19 happening. We really want to give everyone three
20 to four minutes so they can use -- you can use your
21 time to tell us what you're thinking about the
22 consent decree.

23 Again, the consent decree can be found
24 online, you can find it on the Alachua County
25 Public library on University. We can send you a

1 copy if necessary, although there is a
2 transcription price for that. You can get it
3 online and read it or print it out free at home.

4 If you could limit your comments to three to
5 four minutes. Again, we expect more people to
6 come. If you make your comment, want to make
7 another comment, just get in the back of the line.
8 We'll flag you when your time is up. We just want
9 to give everybody an opportunity to make a comment.
10 And with that -- oh, please state your name when
11 you first make your comment.

12 And with that, unless you have any general
13 questions -- oh, sorry, last thing, my colleague is
14 reminding me. We have note cards. Again, this is
15 not your only opportunity to make a public comment.
16 We just wanted you, again, to have the
17 opportunity to make a comment on the record without
18 writing. You can email it in, you can write it
19 snail mail. But we'll also hand out note cards and
20 make sure that these notes cards -- if you write
21 your question here, you never have to speak a word,
22 you don't have to be on camera, you don't have to
23 be audio recorded.

24 But we'll take these cards, make sure our
25 colleague, Cheryl, gets them and takes them to the

1 Department of Justice and they will be considered
2 with the package when we submit it to the judge for
3 entry of the consent decree.

4 MS. SPENCER: Say raise your hand if you need
5 a card.

6 MS. PHILSON: Yes. If you need a card at any
7 point, just raise your hand and L'Tonya will come
8 bring you one. Anything else?

9 AUDIENCE MEMBER: Will there be a repository
10 for the answers to the questions?

11 MS. PHILSON: The repository -- the answers
12 will all be contained in the pleading that we
13 submit to the judge. So -- that's actually a great
14 question because we won't be responding
15 individually, you know, dear Susan, thank you so
16 much for your letter. But we tend to bulk -- if
17 they're similar comments, then we bulk them
18 together.

19 But we make sure that -- because the judge
20 has the option of accepting or rejecting a consent
21 decree. But what they're often interested in is
22 seeing the community's response, the community's
23 concern. A consent decree has a couple of people
24 at the table, those are the parties involved. At
25 this point, Beazer East or Beazer who is the

1 responsible party or potentially responsible party,
2 we call them PRP.

3 The EPA, who is charged by Congress and by
4 statute with enforcing our enviromental laws, and,
5 again, the Department of Justice because they are
6 the Nation's litigators when we're going to court,
7 they're involved, too. Because those three parties
8 are the only ones at the table actually negotiating
9 the comments, the nuts and bolts of the consent
10 decree, even though the consent decree is a legal
11 document that enforces the rod, and we had lots of
12 public comments and the same opportunity to do this
13 during the rod process, we also want to make sure
14 that during the consent decree process once the
15 parties have finished negotiating it that the
16 community's concerns are heard as well. So that's
17 precisely why we're here.

18 And the public comment period is open until
19 the 15th of March. Again, tonight, speaking into
20 the mike, this is not your only or last opportunity
21 to get your comments in. And if your comments are
22 in -- and we're not going to cut it off at midnight
23 on the 15th. If it's postmarked by the 15th, we're
24 still going to take it, that's fine. You can email
25 as well. We want to be sure that we gave you the

1 opportunity tonight to be here and make your
2 comment on the record if you choose not to send it
3 in by any other method. Does that answer your
4 question, ma'am? Okay.

5 Any other general questions? Because if not,
6 I see someone who wants to make a comment. Yes,
7 Kim?

8 KIM POPEJOY: What's the email address?

9 MS. SMOUT: For -- the email address for
10 asking for making comments or -- okay. The email
11 for making a comment, the email address, I will
12 look it up for you. Just a minute because it's --
13 do you guys have the Federal Register notice?
14 Because I have copies of those and it's in that.
15 And I don't have it memorized, so let me just look
16 it up for you.

17 MS. PHILSON: Okay. We already have a
18 comment, so, again, we're going to try and stick to
19 three to four minutes per comment. If you have
20 another comment, just get in the back of the line.
21 Thanks, ya'll.

22 GARY QUINLOVEN: My name is Gary Quinloven,
23 (sic.) I live in the Stephen Foster area here. And
24 I received this notice, which I received this
25 notice which I'm sure many of you had. And the

1 notice is in error because the -- although the
2 period for public comment has been open now for 14
3 days, I have not been able to either examine or
4 download either the consent decree or any of the
5 appendices except for Appendix B.

6 Now, how can I make any kind of a public
7 comment when I can't see the information that is
8 available? Whoever wrote this note copied the
9 website from the Federal Register, as you
10 mentioned, Volume 78, Issue 30, February 13th,
11 2013. And this leads to an error page that says,
12 we are sorry, but we are unable to locate the page
13 you requested on the Department of Education --
14 Department of Justice website.

15 So I did further research, actually, for an
16 hour on the Department of Justice website. And I
17 did an advanced search and I turned up a consent
18 decree without any civil action number at all,
19 which has -- it's open to -- it's dated -- it's not
20 really dated, but the last person to sign it was
21 February 1st, 2013. It is 112 pages, it is not the
22 same decree as it says here. It says per page,
23 it's 115 pages. So there is something going wrong
24 with that information and it hasn't been corrected.

25 And I also found another consent called

1 consent decree document that is only 12 pages long
2 and that's a complaint, actually, it's not a
3 consent decree at all. It's a complaint listed
4 under consent decree.

5 I would like to have an explanation of what
6 is going wrong and why can't we access these
7 documents. Because I think it makes absolutely no
8 sense if we talk about documents that we cannot
9 even see. Thank you.

10 MS. SMOUT: Hi, Cheryl Smout. We had issued
11 a Federal Register notice. And in the notice, we
12 provide a website address which at least one person
13 has been able to successfully access because I got
14 their comment today. And I apologize for your
15 frustration and I really wish that we could have
16 found out about it earlier. I will be happy to
17 give you a copy of the Federal Register note if
18 you'd like it. I have a copy here. I also have --

19 GARY QUINLOVEN: (inaudible) I can't access
20 the Federal Register notice. I don't need a copy,
21 I've accessed that.

22 MS. SMOUT: So you've gotten on that
23 website --

24 GARY QUINLOVEN: (inaudible) Federal
25 Register notice. I got an error.

1 MS. SMOUT: I'm not sure what he just said.
2 Anyway, I apologize that you had problems accessing
3 the site. I really appreciate it if all of you who
4 had problems accessing these documents would please
5 at some point before you leave tonight please come
6 forward, please give me your either email, if you
7 don't have email, please give me your addresses and
8 I will, you know, make sure that I'll put a copy in
9 the mail to you, definitely of the entire consent
10 decree.

11 The attachments are extremely voluminous and
12 would be very hard to -- would be very hard to send
13 to you. The amended record of decision is over 800
14 pages long, which is why I had sent five compact
15 disks of the entire filing to your Alachua Public
16 Library where all of it's located and available for
17 you as well. But if you don't want to go to the
18 library, if you could please come forward at some
19 point tonight and please give me your name. If you
20 have an email, give me your email and I will email
21 you the documents. If you don't have an email, if
22 you could please give me your address and I will
23 send you the consent decree.

24 Also, if no one -- if you don't have the
25 Federal Register notice, I will also give that to

1 you. I -- people have had success getting on it.
2 I got on it myself, so I'm not sure why you're
3 having problems. I apologize for that. But just
4 for the record, the website -- so has anyone else
5 had problems accessing this website? You have?
6 Okay.

7 AUDIENCE MEMBER: I have not ever received
8 anything at all.

9 MS. SMOUT: Okay. So you're not on the
10 mailing list, is that the issue?

11 AUDIENCE MEMBER: I'm supposing.

12 MS. SMOUT: We'll definitely direct that to
13 L'Tonya to make sure you get on the list. Yes?

14 AUDIENCE MEMBER: May I make a suggestion?

15 MS. SMOUT: Sure.

16 AUDIENCE MEMBER: Something like Dropbox
17 where you could have a link and you could store the
18 files because it might go into spam or people --
19 you know, so also you could send people a link and
20 they could just download it.

21 MS. SMOUT: That's what this link is. I was
22 about to tell you what it is. And I can give you a
23 copy of the Federal Register notice. The website
24 link is H-T-T-P, it's colon forward slash forward
25 slash W-W-W dot U-S-D-O-J dot G-O-V --

1 AUDIENCE MEMBER: Slow down, please.

2 MS. SMOUT: Sure. H-T-T-P colon forward
3 slash, forward slash W-W-W dot U-S-D-O-J dot G-O-V
4 forward slash E-N-R-D. It's E as in egg, N as in
5 Nancy, R as in rod, D as in Dan, forward slash
6 consent. It's initial capital C, O-N-S-E-E-N-T,
7 and then a little underline to create a space, a
8 capital D, E-C-R-E-E-S dot H-T-M-L. So that's the
9 website.

10 And if somebody wants -- I have a couple
11 copies of the Federal Register notice here. If
12 you'd like to -- if you didn't understand what I
13 just said and you would like to come copy it down
14 or if you would like to give me your name and your
15 email, I can try to send it to you. Yes, sir?

16 GARY QUINLOVEN: That's exactly the website I
17 am talking about. It is an error. If you access
18 this website, you'll find we are sorry, but we are
19 unable to locate the page you requested on the
20 Department of Justice website.

21 MS. SMOUT: Okay. Did you try --

22 GARY QUINLOVEN: This is the website directly
23 from the Federal Register. It's the same website.

24 MS. SMOUT: Okay. I don't know your
25 computer, I don't know what your access issues are.

1 All I know --

2 GARY QUINLOVEN: (inaudible) -- for actually
3 30 years with computers. I'm not -- I didn't make
4 a mistake.

5 MS. SMOUT: Okay. My only options are either
6 to send you a copy, have you guys give me your
7 email and I will attempt to send it to you. I will
8 do everything I can to work with you, but I can
9 only tell you that I've gotten on the website and I
10 have received at least one comment that was posted
11 on the website. So I don't really know what else
12 to tell you other than to tell you that we are
13 available and we can try to get it to you. So if
14 you could please give us your email and your name,
15 then we can try to get that to you as soon as
16 possible. Thank you.

17 JOHN MOUSSA: (inaudible) -- I'm with Alachua
18 County Environment Protection Department, John
19 Moussa, the documents are linked on our website.
20 If you go to the Alachua County website, go to the
21 environmental protection department and follow
22 links to the Kopper site. We have links to the
23 documents. We have all the copies of them, but
24 there is a link to the DOJ site.

25 MS. SMOUT: Would you like to come down here

1 so we could put that on the record, maybe other
2 people could hear? That would be great, would you
3 mind? That would be great. Do you object to the
4 camera?

5 MR. ROTHSTEIN: This is Paul Rothstein, I
6 would just like to I'm an attorney in the class
7 action (inaudible) we think that any public
8 official be definitely recorded. That's just our
9 opinion.

10 MS. SMOUT: And you consider him a public
11 official? Okay. Can we take a comment while he's
12 doing that? Come on in. Is it okay if you're on
13 camera?

14 SARAH FITZPATRICK: Hi, I'm Sarah
15 Fitzpatrick. I live in the northeast part of
16 Gainesville, not in the Stephen Foster
17 neighborhood. And my question is will the Hampton
18 Heights area be included at all in any of the
19 consent decree, you know, provisions. I'm looking
20 for something like soil testing for my yard. I'm
21 looking for maybe dust testing for my house. I'm
22 concerned about my little kids growing up and
23 playing in the yard, so this is a big concern for
24 me.

25 Also, my father lives along the creek near

1 23rd, and I wanted to make sure that the creeks are
2 being properly cared for. My kids like to look for
3 shark's teeth and things like that. I don't want
4 them playing in contaminated ground water and
5 ground. Thank you.

6 MS. PHILSON: Can you just tell me your cross
7 streets, an intersection near your home?

8 SARAH FITZPATRICK: I live on Northeast 7th
9 Street between 16th and 23rd.

10 MS. PHILSON: Scott, based on your -- I'm
11 going to defer to Scott Miller on this one. I
12 don't know where that is.

13 MR. MILLER: In short, it's not going to be
14 included in the remediation. It's outside the area
15 where contamination --

16 SARAH FITZPATRICK: Has it been tested?

17 MR. MILLER: Ms. Fitzpatrick, it's not going
18 to be included in the remediation. We've tested
19 from here down and done testing there and it's just
20 not -- the contamination is not found.

21 SARAH FITZPATRICK: I saw that testing was
22 done at 23rd up there, but I didn't see that it was
23 tested in the rest of the neighborhood. I don't
24 know if it's the map didn't include the sites. On
25 the map, it didn't look like anything in my area

1 had been tested.

2 MR. MILLER: Okay. So you're south of
3 Northwest 23rd?

4 SARAH FITZPATRICK: Right, 23rd between
5 16th -- 7th Street between 16th and 23rd.

6 MR. MILLER: Okay. There has been testing
7 down in that direction. I believe you're -- the
8 State standards were met at distance, but not that
9 far south. And Dr. Moussa may be able to weigh in
10 on that as well.

11 SARAH FITZPATRICK: If we wanted to do our
12 own testing, can you recommend people that we can
13 have to come in and do that, please?

14 AUDIENCE MEMBER: Can you get in the
15 microphone?

16 SARAH FITZPATRICK: I asked if we wanted to
17 have our own people come in to do the testing if
18 the Government didn't want to if you had anybody
19 you could recommend just so that, you know, we feel
20 safe growing vegetable and things like that in our
21 yards.

22 MR. MILLER: We don't have a recommendation
23 for who to hire, but there are commercial firms in
24 town that can do that testing for you.

25 SARAH FITZPATRICK: Thank you.

1 MR. MILLER: Yes, ma'am.

2 MR. ROTHSTEIN: Paul Rothstein. I would just
3 like to note on the class action litigation, we are
4 inviting people for additional indoor dust testing
5 and for soil testing at no charge to them.

6 MS. PHILSON: Mr. Rothstein, actually, if I
7 could ask you if you have comment to come to the
8 mike. Because I don't -- I just don't think it's
9 fair to have a sidebar after every comment. If you
10 have a comment, please just come to the mike like
11 everyone else. Thank you.

12 JOHN MOUSSA: Yes, John Moussa from Alachua
13 County Environmental Protection Department. I
14 wanted to provide some assistance to the gentleman
15 that was having trouble accessing some documents.
16 We do have a link to the DOJ site at the Alachua
17 County web page, plus we have local copies of the
18 documents. There's links to those. So one of
19 those may work.

20 If folks are having trouble accessing these
21 links, please contact me at the Alachua County
22 Environmental Protection Department, 264-6805, and
23 we'll figure out what's going on. We'll contact
24 the EPA or make sure our links work. But there are
25 other ways to get the documents and we have them on

1 our site.

2 MS. PHILSON: And just to follow up, John, if
3 I'm not mistaken, you got the link from me
4 originally, right? Because I know I've gone to the
5 link several times and I have also sent it out to
6 several people and I got the link from Cheryl. So,
7 again, I apologize. Has anyone else had problems?
8 Has anyone else tried to access the link and not
9 been able to?

10 AUDIENCE MEMBER: I was just trying to get on
11 your site and it's not, it does doesn't work.

12 JOHN MOUSSA: Something must have happened
13 because they --

14 MS. PHILSON: John, they would like you to
15 repeat your phone number, please.

16 JOHN MOUSSA: Our phone number is 264-6805,
17 that's my direct number. So if you're having
18 trouble accessing that link, please let me know and
19 we'll doublecheck to make sure that link is
20 working. Like I said, we've downloaded a local
21 copy of some of those documents. So even if you
22 can't get them from the EPA's site directly, you
23 may be able, you know, to get a local link and get
24 the same document.

25 MS. PHILSON: Dr. Klein, I know you're on

1 your iPad, did you say you were just able to access
2 it?

3 PAT KLEIN: I can access them all, they're
4 all accessible.

5 AUDIENCE MEMBER: Even the Department of
6 Justice link? That's one that I can't --
7 (inaudible)

8 PAT KLEIN: At the Alachua County website all
9 of the links are -- (inaudible)

10 AUDIENCE MEMBER: They didn't get us the one
11 that -- (inaudible)

12 MS. PHILSON: Okay. I'm going to take the
13 next comment, ya'll.

14 GABRIEL HILLEL: My name Gabriel Hillel, I am
15 an attorney and have done a Public Records Act
16 requests and am raising an issue that some of you
17 may know about, but some of you may not. That the
18 EPA has, in the last eight months, distinguished,
19 in not only the relief they are going to provide,
20 but in the nature of the testing.

21 I'm reading next from the U.S. EPA Region IV
22 memo dated November 16th, 2012, from Kevin Simons
23 through Laura Akerman to Scott Miller. Attached
24 the final report for the Kopper sites sampling
25 event conducted on October 2nd, 2012. Reading next

1 on October 2nd, 2012 --

2 AUDIENCE MEMBER: Speak into the mike,
3 please.

4 GABRIEL HILLEL: Is that better? Thank you.
5 I appreciate that. On October 2nd, 2012,
6 representatives of the U.S. EPA Region IV Science
7 and Ecosystem Support Division conducted a soil
8 sampling investigation at the City of Gainesville's
9 municipal storage yard, MSY, and adjacent areas in
10 Gainesville, Florida. The investigation was
11 requested by Scott Miller, remedial project manager
12 Region IV Superfund division.

13 The key paragraph is the conclusion. The
14 results presented in this report will be used by
15 the RPM at City of Gainesville personnel to
16 determine if further action is necessary regarding
17 dioxin exposure to workers in the MSY. The results
18 from samples collected in the residential areas
19 will be compared to previous data and used by the
20 RPM to determine the next course of action, if any.

21 Over six months, the 75 or so workers in the
22 MSY were protected with masks. There were signs
23 that were put up around there. None of that is
24 offered to the basic neighborhood. I've got six
25 months' worth of correspondence, almost all of it

1 secret and kept from the public. The reason
2 someone has not latched onto it is the City
3 Commission was made familiar with what was going on
4 in one single communication.

5 There was six months' worth of communication
6 between attorneys and engineers favoring -- I don't
7 want to be insulting to MSY workers who are not at
8 fault -- but they were kept apprised minute to
9 minute, given a chance to wear masks that were
10 never offered in the neighborhood. That dioxin was
11 a dangerous carcinogen was not in dispute. The
12 amount in the soil was no greater at points than it
13 was in the neighborhood.

14 This distinction shows to me that the rest of
15 it that we're going to be talking about tonight is
16 like Plato's cave where we're going to talk to the
17 shadows. Because if you're favoring one group
18 because that's a group well protected by the City
19 Administration, and for 30 years the neighborhood
20 is going to stay that way, it seems to me the
21 discussion is moot. Thank you.

22 MS. PHILSON: Is the municipal storage yard
23 part of the site, Scott?

24 MR. MILLER: It was part of the site that was
25 sampled.

1 AUDIENCE MEMBER: Can we get that on the
2 speaker, please.

3 MR. MILLER: The municipal storage yard was
4 sampled by EPA in October as --

5 GABRIEL HILLEL: It was sampled last spring.

6 MR. MILLER: I understand that. I was going
7 to your memo which you read related to the sampling
8 event there. As it relates to what the City of
9 Gainesville did with the information that was
10 provided, that would be something that you would
11 talk to them about. Okay.

12 MS. PHILSON: Yes, ma'am.

13 KY GRESS: My name is Ky Gress. (sic.) I
14 have lived in this neighborhood since 1994. I want
15 to speak to Springstead and Hogtown Creeks, about
16 Ring Park, about the water flow, about the number
17 of residents who take their children there to hunt
18 for shark's teeth, walk barefoot, do cleanup, and
19 the number of dogs that drink the water.

20 I've read the latest eco studies about the
21 levels of contamination, and they are above levels
22 that are known to impact, you know, animal life.
23 But it doesn't appear to be any further testing
24 required or cleanup of the creeks. And I would
25 like to know more about that, why that isn't so. I

1 would like to request that the EPA pay for a
2 professional eco tox study of impacts to wildlife
3 in the creek.

4 When I go there regularly with my children, I
5 rarely see any living creatures in that and I think
6 that needs to be investigated further. At a
7 minimum, I believe there needs to be signs there
8 warning parents not to allow their children to play
9 barefoot in the creek and spend time there, even
10 swimming. I've taken my children there swimming in
11 the past, like full immersion into the water, and
12 also letting their dogs play and drink the water
13 which they often do on a daily basis. So what is
14 the EPA's plan for further investigation or
15 remediation of the creeks?

16 MS. PHILSON: You can -- if the consent
17 decree -- the first attachment, the first appendix
18 is the rod, the 2011 amended record of decision.
19 That is an 800 page document. It actually does
20 specify what cleanup needs to happen in Springtown
21 and Hogtown Creeks, and the tar removal and
22 sediment removal that will occur there is specified
23 in that document.

24 KY GRESS: It seems to be very little
25 attention to the creek. There is really nothing

1 about doing a full study about the impact to
2 wildlife. That's a wildlife corridor.

3 MS. PHILSON: Yes, ma'am. I know that that
4 was studied as part of the focus feasibility study.

5 KY GRESS: What was actually studied -- yeah,
6 there was sampling done by EPD and it was found to
7 be that the levels were higher than the eco tox
8 values for protected -- you know, to wildlife,
9 birds, fish, snakes, turtles. And there was some
10 really very minor remediation, very minor. If you
11 go there and you dig -- and there are wildlife
12 biologists who live in the neighborhood who have
13 tested this. If you walk down there, you dig in
14 there, in that creek you're going to find deposits.
15 So what was done was really cosmetic.

16 Now, I understand it's a very complex
17 situation. I don't want to pretend like -- there
18 is even controversy do we want to bulldoze and
19 actually mobilize those contaminants. I'm not
20 saying that's the right answer either. But I think
21 there needs to be really a full scale dedication to
22 investigating the impacts because people are in
23 those creeks every single day. We take our kids
24 there and we're encouraged to do that by the City
25 and the County and there are no warning signs. And

1 I think at a minimum parents should be, you know,
2 at least told that the potential -- that the
3 contamination is even there and then they can make
4 an informed decision.

5 But it's a whitewash to pretend it's not an
6 issue or that sediments are just going to cover
7 that or it's going to be -- you know, eventually
8 it's going to flow away. I think we can take them
9 in a more informed and action oriented approach to
10 it. Let's at least do the study. What's the
11 impact? I mean, we really very rarely see anything
12 alive in that water.

13 MS. PHILSON: Thank you. Again, I just want
14 to say there has been some soil re -- sorry, creek
15 remediation. But there will be more creek
16 remediation. Again, if you read the amended rod
17 from 2011, one of the things that it calls for is a
18 plan of action for how to complete a creek cleanup.
19 Next comment.

20 W.E. MACK MCKITCHEN: I'm impressed with the
21 EPA and the people the come from the United States
22 Government in Atlanta. My name is W.E. Mack
23 McKitchen. I lived at the back gate of Koppers
24 starting in 1944 and I lived there until January of
25 1950. That was a -- the street out here was called

1 Alabama Street then.

2 What I would like to know is what should I be
3 concerned about? Am I subject to some sort of
4 infections or some sort of something from the
5 result of living there? Because I played in their
6 facilities. Back then they didn't have the gates
7 closed. I shortcutted through there on my bicycle
8 to go to school or motorcycle or whatever. So what
9 should I be concerned about?

10 MS. PHILSON: Well, I'll answer that question
11 to the extent I'm able. I'm a lawyer, not a human
12 health risk assessor. But I know that we do have a
13 human health risk assessor on staff at EPA who has
14 been evaluating things.

15 And, again, I can't speak to exposure you may
16 have had back in the forties and fifties. I know
17 they were using different compounds, different
18 chemicals, a different process at that time. But I
19 know at this point there has been no cause for
20 evacuations or removal of people from their homes.
21 And as we go through the process of doing the
22 actual cleanup, we will have processes in place to
23 make sure that we're not spreading the
24 contamination that we're removing and further
25 disseminating it into the community.

1 MARK VENSKE: Mark Venske, Gainesville. I
2 have read or heard the remediation of sediments
3 along the creeks was done kind of spottily; that
4 is, where opportunities presented themselves to
5 access the sediments where access was more
6 difficult or they were not done. Those could be
7 places where sediments could be -- contaminated
8 sediments could be present in very high
9 concentrations.

10 What I would like to know is what plan the
11 EPA has, for those of us who have not read the rod,
12 to get to sediments that have heretofore been
13 difficult to access. Thank you.

14 MR. MILLER: The record of decision requires
15 that there be further testing as well as a cleanup
16 to be protective of aquatic organisms in the
17 Springstead and Hogtown Creek area. For
18 site-related contaminants, there's been an
19 interment measure of approximately 400 tons of
20 sediments that have been removed to date, so that
21 is required by the record of decision.

22 MS. SMOUT: And what aquatic species, weren't
23 they focus feasible study or no?

24 MR. MILLER: The aquatic species were
25 required to be -- were requiring to do a cleanup to

1 be protective of aquatic speccies. Okay.

2 CLEMMIE MIDDLETON: My name is Clemmie
3 Middleton. C-L-E-M-M-I-E. My question is I don't
4 live right in the Stephen Foster area, but I live
5 less than two miles away from Stephen Foster. So I
6 was wondering -- well, I heard that the
7 contaminants went at least two miles each way. So
8 my thing is, I have never heard anything about --
9 like the lady said earlier, that whether there was
10 going to be any testing in the Carol Estates area.
11 And, like I said, I have never had any paperwork,
12 seen anything, hadn't heard anything. But I was
13 informed that there was some contaminated areas in
14 there.

15 MS. SMOUT: What's the cross street?

16 CLEMMIE MIDDLETON: 23rd and 15th, up in that
17 area. 23rd and 15th. 15th -- it's less than
18 two miles.

19 MS. PHILSON: Thank you. When we are
20 determining the extent of a Superfund site, we call
21 it the aerial extent. That means the site is where
22 the contamination is. It's simply no more
23 complicated than that. You can't say, well, the
24 building is here, so this is where all the
25 contamination was. That's as simple as that.

1 So what we do when we're attempting to
2 delineate a site is, obviously you start at the
3 center and you start at the process area or
4 wherever the breach was where the contaminants
5 first entered the environment. Then you move back
6 from there you move outward in concentric circles.

7 If you haven't been contacted from two miles
8 away it's because we tested out, tested out, tested
9 out and eventually came up with samples that were
10 clean. We compare those against background samples
11 in other locations within the community. So if you
12 haven't been contacted about that, it's because you
13 you're not considered part of a site, you're too
14 far away. And the soil contamination, to the
15 extent there is any at your site, is not related to
16 activities at either of those former operating
17 facilities.

18 I'm sorry, which doesn't mean you can't be on
19 the mailing list and we're glad that you're here
20 and will continue to receive information to
21 participate as your community. You're, obviously,
22 a very close neighbor. But that's why you haven't
23 been receiving information on this, you haven't
24 been on our mailing list. But if you would like to
25 be, you can see L'Tonya, give her your address,

1 again, for any of the rest of you, to make sure
2 that the next public meeting or the next activity
3 going on you hear about because you get a mailing
4 directly from the U.S. EPA.

5 CLEMMIE MIDDLETON: No, what was I was going
6 to say they said it's two miles and less. I've had
7 the medical problems that -- you know, about what
8 the contaminants cause. So I was wondering why our
9 area wasn't tested. There is a couple of us that's
10 in that area that's having the medical problems.
11 And so if they said it was two miles and less, we
12 were wondering how come our two miles or less
13 wasn't -- we hadn't been informed.

14 MS. PHILSON: Okay. Thank you. Again, I
15 don't know who they is. I'm not for sure who is
16 saying, you know, two miles. But contaminants
17 don't travel a certain distance in any particular
18 direction based on -- if it goes in two miles in
19 one direction that it's going to go two miles in
20 all directions. Again, if we haven't contacted
21 you, if we haven't done testing at your site -- I
22 mean, at your home, it's because we tested out and
23 determined the site boundaries ended shy of that
24 because we were hitting background levels that were
25 normal and not affected by or impacted by the site.

1 I'm going to come to you in one second. You,
2 and then I'll come over here I'll come back to you
3 thank you.

4 MARIA PARSONS: First of all, my name is
5 Maria Parsons. I'd like to thank you for this
6 format. Because the last time the EPA was in town,
7 the most affected individuals were stopped from
8 making comments. The microphone was turned off and
9 the lights were turned off. And we were not
10 allowed to speak, only a few of us got a chance to
11 speak after the most of 90 percent of the residents
12 stepped out in disgust. So thank you so much for
13 not having a strange format or plan to speak that
14 was not actually communicated to the entire
15 community.

16 And, also, the EPA promised that you would
17 contact Sandy Watts Kennedy and myself regarding
18 any meetings and issues. And for a year and a
19 half, we have not received any information. So I
20 don't know about your -- we have given you our
21 details umpteen times, several dozen times to be
22 exact. So there is no excuse for that. So I
23 question, you know, that if you are on the list
24 that you will get any communication.

25 So my situation is, on behalf of the

1 residents, how is it that for Gainesville residents
2 dioxins are not considered a health problem or an
3 issue, when EPA in Texas clearly states that there
4 are no safe levels for dioxins for human health.

5 In 1978 Dr. Chorchiva Ph.d. and a team of
6 scientists studied dioxins. And based on their
7 study, dioxins were found to be highly
8 carcinogenic, and a minute amount of dioxins was
9 found to cause liver cancers and many other
10 cancers. And their research made dioxins one of
11 the most toxic agent to human health and the World
12 Health recognizes that as such. So why aren't
13 Gainesville residents deserving of protection?

14 My house is contaminated inside, my creek
15 that I own and most people have creekside property
16 I believe all of us own contaminated properties.
17 They have not been cleaned. They're contaminated.
18 We're not to go on the water, we're not to touch
19 the sediment. And, yet, you have not delineated
20 past 30th or 33rd Avenue.

21 I don't understand why when we have dioxins
22 in our property that we get a letter from the State
23 Department stating so that you don't go past -- how
24 did you come to the delineation? I don't
25 understand. Have you finished the delineation of

1 the contamination? And how is it that six inches
2 of soil is being dumped on 30 acres on top of the
3 site without any remediation or cleanup given us
4 super amount dioxins is a cleanup.

5 In other sites, they're digging up the same
6 dioxins. There are no impermeable layers. I am in
7 touch with over 40 other Superfund sites that are
8 part of EPA Region IV and they also didn't find
9 such thing. I find this highly inadequate and this
10 is not a cleanup, this is a cover up. And a city
11 like Gainesville and its residents deserve a real
12 cleanup.

13 And the citizens that have been complaining,
14 protesting, coming before commission hearings
15 umpteen times over 30 years -- one only needs to
16 look at the records -- describing their pain, their
17 suffering, their cancers, multiple families, entire
18 families decimated, and yet that is not being
19 considered. I don't believe that the EPA is
20 protecting the residents. I believe -- I was under
21 the impression that the EPA was an agency that was
22 there established for the protection of the
23 residents, the community, the source of our
24 drinking water.

25 This contamination, no matter what you do

1 continues to permeate and percolate into our
2 aquifer. And not to mention the remox (sic.) that
3 is being injected and residents were not informed.
4 The State gave the Beazers and Koppers a variance.
5 And the reasons stated in the documents, which I
6 have, states that, hey, no one petitioned against
7 the petition to complain, so, therefore, a toxic
8 agent that is not allowed near a municipality or
9 municipal waters is being injected. And many
10 residents believe that it's being injected also --
11 not just on the site, but also on offsite wells.
12 This is a major problem and we're demanding a real
13 cleanup. And we're asking the Court not to approve
14 this. We want a real cleanup. Thank you very
15 much.

16 MS. PHILSON: Thank you. There are obviously
17 a lot of points in there, very few I can speak to.
18 One is, we haven't had contact with the community
19 as far as having a meeting and bringing people to
20 the table for the last year and half because we've
21 been negotiating the consent decree for the last
22 year and half. Now the consent decree is
23 completed, it's negotiated and lodged before the
24 Court. That's why we're here, that's why we came
25 back to have this forum and to take these comments.

1 I do thank you for your comment.

2 And I'm not familiar with anywhere on the
3 site where we're just putting six inches of soil
4 and calling it clean. That's not -- again, we have
5 an 800 page document that details the level extent
6 and methodology of the cleanup. I'm not familiar
7 with anywhere in the cleanup where just putting
8 six inches of soil on top of the ground --

9 MARIA PARSONS: That is not what I said.
10 They're removing it from off site and putting it on
11 the site.

12 MS. PHILSON: Again, it's not appropriate for
13 us to have a back and forth across the room at this
14 point. But I encourage you to do what Ms. Parsons
15 has done, which is look at the rod, evaluate what
16 you see, think about how the consent decree has
17 come together. Again, until the 15th of March you
18 still have this forum to make a comment which will
19 be considered by the judge when he or she considers
20 whether or not to enter this consent decree. If
21 you think it's inadequate, if you have a problem,
22 if you have a concern, that's literally why we're
23 here tonight. So please come and have your
24 comments known.

25 I haven't forgotten about you, I'm just to

1 come over here first.

2 JOE PRAGNER: Thank you. My name is Joe
3 Pragner and I've lived in Gainesville for twenty
4 some odd years. I'm a realtor now here and I share
5 the concerns of people in the neighborhood about
6 their property values. But more than that, I share
7 the concerns of this gentleman here and Ms. Parsons
8 about human health hazards. Not just those in the
9 creeks, the creatures in the creeks, but the human
10 beings that live in the homes near the site.

11 You talked about the boundaries of the site
12 and that's my primary question. At some Superfund
13 sites, the Federal judge said, okay, the boundaries
14 don't stop at the fence. We're going to encompass
15 these residential properties around the site
16 because they were contaminated through toxic
17 trespass, a concept no doubt you're familiar with
18 as a lawyer. So I'm concerned that pregnant women,
19 old people, children exposed to dioxins who live
20 within, say, a three, four block area of the
21 boundary of Koppers are unwittingly being exposed
22 to dioxins which cause every known type of cancer,
23 as you know.

24 So my first question to you is, do you see
25 the Federal judge reviewing whether the boundaries

1 of Koppers should be expanded to the north to
2 encompass the Gainesville facility he mentioned, or
3 to the west to encompass the known contaminated
4 residential lots?

5 The reason I ask this as a realtor is I've
6 seen some of these properties go for sale, okay,
7 one of them on a Fannie Mae website as a
8 foreclosure. When you settle a bank foreclosure
9 property, there is no disclosure. And one of our
10 commissioners sent a letter to the Association of
11 Realtors to remind realtors to be sure to disclose
12 proximity to Koppers. And one firm even discloses
13 it for every property in the county. They have a
14 blanket environmental disclosure form. It mentions
15 Superfund sites. Now, I don't think the problem is
16 that significant, but, obviously, we don't know the
17 true boundaries.

18 So my first question is, can we communicate
19 with the Judge to ask him to expand the boundaries
20 of the Superfund site to encompass the properties
21 that have been damaged so they are bought back at
22 fair market value instead of having to be sold for,
23 if they're lucky, \$39,000 for three, two concrete
24 block home or given away or being sold without
25 disclosure unknowingly to another person who thinks

1 they're getting a bargain, but is really getting a
2 property where two feet of soil should be removed.

3 By the way, it was two feet of soil, now it's
4 six inches, or is it? So that's another question
5 for you. Is it two feet, is it six inches? And
6 what are we doing about those issues? How do you
7 communicate with the Judge. Thanks.

8 MS. SMOUT: The remedy is being done in
9 operable units and there is different numbers
10 associated with them. And one of the operable
11 units actually -- one of the operable units
12 actually includes the aerial extent of all
13 contamination emanating from the site which is why
14 one of the parts of the remediation involves going
15 to -- around to all the properties where we've
16 found any hits at all where there is a contaminant
17 of concern that's above a cleanup level.

18 The plan is to go to every single house
19 that's on that that -- where we've found any type
20 of contamination and basically to offer two
21 different options. You can read it in the consent
22 decree if you would like to come up afterwards, I
23 can show you the actual language. But we're
24 basically saying to all of the homeowners, hey, you
25 know, you can either have your site -- you can have

1 your soil removed, we'll figure out how deep the
2 contamination is and remove the soil and replace
3 it. We can do deed restrictions. But we're
4 working with the homeowners.

5 To answer your first question -- where did
6 you go? To answer your first question, the aerial
7 extent of the contamination does go beyond the
8 boundaries of the actual Koppers part of the site
9 and the Cabot part of the site. If you look at the
10 maps that are attached to the consent decree, also
11 if you review the rod, okay, I can give you the
12 pages, if you guys want me to look it up I can give
13 it to you in a couple minutes.

14 Basically both in the amended rod and in the
15 consent decree, we specifically state that what we
16 want to do is to go around to every single house
17 where we have found any contamination at all that's
18 above any cleanup goal. Okay. And Florida
19 actually has some goals, cleanup goals that are
20 more stringent than the Federal goals. And so we
21 go with the more stringent goals. That's what we
22 have to do. That's what's required of us. So to
23 answer your first question, yes, it does go beyond
24 the actual facility boundaries.

25 To -- let's see, you are also wanted to know

1 the depth. Okay. That also -- again, I can point
2 you to actual language in both the amended rod and
3 also in the consent decree. We are going around to
4 every single house and testing down to the point
5 where there is no contamination. That's where
6 we're going to remove. We're going to remove to
7 that level if the homeowner wants it. Okay. We
8 can't go onto anybody's property and force you to
9 clean up your property if you don't want your
10 property cleaned up. If you don't want a deed
11 restriction, if you don't want any type of
12 engineered controls which, you know, for example
13 fences, signs, that kind of thing, if you don't
14 want any of that, we can't force you.

15 However, we are going to go around to every
16 single house where there has been any hit at all of
17 any contaminant of concern, one iota above any
18 clean up level and we're going to work a specific
19 plan for that particular household. If we've got
20 to dig down, you know, 20 feet, then that's what we
21 dig down. If they've got a giant tree that they
22 want to save, we'll do what we can. If they have
23 to be temporarily relocated, you know, that's
24 something we have the authority to do. I'm not
25 talking permanent relocation, okay, I'm talking

1 temporary to local, you know, hotel or whatever.

2 But it's -- there is no across the board
3 anywhere. There is no mandate that it's only six
4 to twelve inches or, you know, that we're only
5 cleaning up in one area. They have basically gone
6 around, as has already been explained by Caroline,
7 and sampled all the way out.

8 The interesting -- if you would ever want to
9 look at any of the information in both the remedial
10 investigation feasibility studies, the focus
11 feasibility studies, we literally have feet of
12 information we could show you of the very detailed
13 sampling that they've done all throughout the
14 entire area for all chemicals you can imagine,
15 including dioxin, which is actually very minor.
16 There is really not much there for that. But they
17 have done that. We have -- we got the back up on
18 that.

19 I mean, if you really want to see the back
20 up, it's all in the administrative record. I
21 believe all of those documents are also in the
22 repository in the Alachua County Library. So we
23 did do all that sampling. We did figure out the
24 aerial extent of contamination. It does go into
25 people's yards. And we are going to be going and

1 working a plan for every single individual --
2 excuse me, family, I should say. I mean for every
3 residence, which would include individuals or
4 families, to figure out what they want to do, okay,
5 what do they want with their yard.

6 And that's -- you know, so that's why we
7 can't give you a general answer saying that we're
8 going to clean up every ounce of contamination
9 because we don't have the power to go and force
10 some homeowner, you know, to have his yard cleaned
11 up. But to the extent homeowners are willing to do
12 that, that's what we're going to do. We're going
13 to do whatever we can. We are going to be very,
14 very protective of the environment. That's our
15 mandate. Matter of fact, it's also laid out in the
16 rod. I can give you those specific pages.

17 But we are very careful about, for example,
18 dust, okay, dust control, about making sure that
19 the trucks coming in and out, we're getting
20 easements so that we don't have to drive all around
21 the neighborhood. Very specific ways in which
22 we're trying to be very careful of how -- about how
23 we clean up every person's yard.

24 But we're definitely -- it's all in there.
25 We are going to clean it up specifically for that

1 particular yard's contamination to the wishes of
2 what that property owner wants to do. And I think
3 I've answered your question. If I haven't, could
4 you tell me what else you need to know.

5 JOE PRAGNER: Thank you. Because I used to
6 live south of Times Beach, Missouri, and it was
7 contaminated with dust. It was on the news
8 everyday in the eighties. And it does not now have
9 the stigma that it once did because it was cleaned
10 up. I'm not sure if it compares to this cleanup,
11 but they did go in, as you know, and take care of
12 that. Now it's become a place where the property
13 values are back to normal.

14 I just hope there is a way if citizens want
15 to communicate to the Judge if you could make that
16 clear, then you would answer my final question.

17 MS. SMOUT: Okay. Can you tell me what your
18 question is? You want to make sure -- tell me one
19 more time.

20 JOE PRAGNER: This will come before a Federal
21 judge.

22 MS. SMOUT: Yes.

23 JOE PRAGNER: I'm assuming that is not open
24 to the public and we can't sit in the back and say
25 excuse me, your Honor. How do we get our comments

1 before the judge if he's going to review this
2 material or will he watch this videotape of
3 tonight's meeting?

4 MS. SMOUT: Okay. Now I understand what
5 you're asking. Yes. Under the regulations,
6 whenever you're doing a Federal consent decree,
7 it's required that you put it out for public notice
8 and comment. It's also required that we submit
9 anything we receive from the public, so that's why
10 we asked for a transcription to be made of this
11 meeting. I haven't talked about whether I can get
12 the video, I don't know.

13 But we definitely will have the transcribed
14 material will go directly to the Court. It will be
15 a copy, you know, attached to what's called a
16 memorandum and support of the motion to enter. But
17 I'm getting ahead of myself. Because we really do
18 look at every single comment, every single issue,
19 every single problem. And it is my responsibility
20 to make sure that we've adequately responded, that
21 we have a plan that's going to work that's going to
22 address that issue.

23 That's my responsibility. It's my
24 responsibility to say, you know, hey, we need to
25 work on this other part, you know. I don't know

1 what that other part is, but we have pulled consent
2 decrees. I've worked for the Department of Justice
3 for 25 years and I can tell you at least four or
4 five decrees that we've actually pulled back
5 because of what we received during a public notice
6 of comment period. So this is not all for show,
7 okay, this is not a done deal. We care and we want
8 to know what you have to say and what your concerns
9 are.

10 At the same time, it's a little bit of a
11 concern on my part because there can be
12 misinformation that goes out or, you know,
13 misinterpretation. So I invite you if you would
14 like to get my, you know, email, if you would like
15 to talk to me, email me, let me know what your
16 issues and concerns are separately from the public
17 notice and comment, I offer that to you tonight.
18 That's not something that I've, you know -- that I
19 do very often. But I realize that there is fear
20 and there is concern.

21 I have two children, I've played in the
22 creeks by my house. I know exactly how you feel.
23 I have a dog, my dog plays in the water. At the
24 same time, I've been working with this team of
25 people. In a way, I'm sort of an outsider because

1 I represent, really, the United States, I represent
2 you. Okay. And, you know, EPA is certainly part
3 of that process.

4 But, you know, as an outsider, I can tell you
5 I've been working with this team for a while now
6 and they have really done their very best. They
7 really have been very specific and very technical
8 and very, you know, discerning about how they want
9 to clean up the site. We are worried about it. We
10 do want to clean it up.

11 As a matter of fact, one separate operable
12 unit is just the creeks. I may be saying that
13 wrong, but I know it's part of --

14 AUDIENCE MEMBER: There is so many other
15 people.

16 MS. SMOUT: I'm so sorry. That's what you
17 get when you invite a DOJ attorney, we want the
18 mike. Sorry.

19 MS. PHILSON: Thanks. I just want to again
20 check in. It's about six minute after 7:00.
21 Again, we're here until 8:00. We have a court
22 reporter or stenographer until 8:00. Again, thank
23 you very much for your patience. Let's continue
24 moving through.

25 AMY SCHWARZER: Hi, my name is Amy Schwarzer

1 that's spelled S-C-H-W-A-R-Z-E-R. I'm just a
2 concerned resident. I live outside of the
3 contamination area as far as I know. I have two
4 concerns. I haven't read the full decree at this
5 point, I haven't had time to go through 800 pages.
6 But, one, I'm not sure I'm very comfortable with
7 the idea that we're storing contaminated soil back
8 onto the site.

9 It seems to me that that soil should be
10 removed from the community altogether and probably
11 stored in a hazardous waste site. I understand
12 there is technical reasons why this is the
13 preferred method, but there have been multiple
14 examples throughout the country of places where we
15 have assumed that we have contained contaminants
16 and we have not done so. Eventually things leach,
17 containers break down, and impermeable surfaces
18 aren't so impermeable. That's a big concern for
19 me.

20 But more than that my biggest concern, you
21 know, is, great, we're cleaning up their soil,
22 we're cleaning up the yards for these people. But
23 what about their homes? What about the physical
24 structures? I mean, there is no way that the air
25 pollution and the dioxin didn't, in fact, affect

1 these structures. And I'm seeing really no
2 remediation for that. I mean, we're not cleaning
3 the inside of these people's homes, we're not
4 offering them -- there we go.

5 You know, so I appreciate the level to which,
6 you know, we're trying to do soil removal and water
7 removal and things like that, but the point is,
8 most human beings in modern society live in their
9 homes. We spend most of our time, something like
10 75 to 85 percent of our time in the home or in a
11 physical structure. And all of these structures
12 within the contaminant area are also contaminated.

13 And I think the fact that this consent
14 decree, as far as understand, does not cover that
15 is a really egregious oversight. So that's my
16 comment and I'll pass it on.

17 BOB HALLMAN: My name is Bob Hallman, that's
18 spelled H-A-L-L-M-A-N. I've been to a few of these
19 meetings before in other states and so forth. One
20 of the things that I would like to know and maybe
21 get it addressed from you is specifically, rather
22 than this general statement, that these people are
23 not eligible to be permanently relocated. I would
24 like to know what kind of research went into that
25 and why these people are not eligible for that.

1 Let's take into consideration, for example,
2 other areas where people have been permanently
3 relocated and so forth. How does that compare with
4 this particular group, especially since it seems
5 that the testing has been a little bit sparse and
6 I'm not even sure that it's been appropriate. But,
7 anyway, that concerns me. And I would like to see
8 that. I have not seen anything in writing about
9 that and so forth.

10 I've been at other sites where they have had
11 these meetings and they said they were going to
12 clean up, nothing happened. For example, in Brick,
13 New Jersey, they just decided they wouldn't clean
14 it up and they made a solar farm out of it. Down
15 in Fort Lauderdale, there was a four acre site down
16 there. They built a brand new building on it, 40
17 employees were in there. I called the EPA and I
18 said is this an active site. Yeah. Did you know
19 there's a new building on it. No. Well, shouldn't
20 something be done on it. Click. They hung up the
21 phone and so forth. So this is the kind of
22 experiences that the people are being done.

23 Now, this evening, I don't think two hours is
24 really an appropriate amount of time and so forth.
25 I think there should be more than just this

1 two-hour period and so forth. I don't know if
2 there is a scientist here -- are you a scientist
3 representing -- you are? Okay.

4 I also understand that there were some
5 testing companies, subcontractors that came into
6 this area who were prosecuted in other areas for
7 the mistakes that they've made and so forth. We
8 have, for example, a hired group of individuals
9 that are going around and harassing some of the
10 activists here. We're not sure who is doing that.
11 The only person that I can think of that would be,
12 shall we say, benefited by it would be our friends
13 from Beazer.

14 I don't know if you know, but Beazer you know
15 is bigger than BP so they have lot of money working
16 with their lobbyist and so forth. So I would like
17 to know specifically why these people are not
18 eligible for a permanent relocation. If you could
19 give me an address, if it's on that card and so
20 forth, I would like to have that information.

21 BRIAN STANDON: Everybody, my name is Brian
22 Standon and I live really close to Wards near 22nd
23 and 6th, so I'm very close to the site. I even
24 used to be an environmental science major and
25 environmental journalist, changed majors, moved

1 away for a few years, kept driving back and forth.
2 And I was unaware of the whole Koppers thing until
3 I rented a house there. I was even interested in
4 buying the property. The gentleman that was
5 sitting over there, the realtor, he brought up some
6 of my concerns as well. And I moved in about a
7 year and a half ago and, you know, I was never
8 told -- the realtor Gloria Bell did not disclose
9 anything about that it was close or that there was
10 an issue. There was no kind of disclosure. I've
11 never received any kind of notice. I have no idea
12 what the soil is like.

13 In addition, I am a leader in a local
14 non-profit, Edible Nursery, that old plant project,
15 and we are really pushing to get everybody to grow
16 their own food. And one thing is I'm pretty decent
17 growing plants. I have noticed -- okay. So the
18 people -- one thing is, I've noticed that the
19 plants have not been growing that well in my yard
20 that would normally grow much better, like a lot
21 easier in other places that I lived, other places
22 I've planted. And we plant things that are really
23 easy to care for and even native and thrive.

24 So what I want to know is how does this
25 actually affect the plants? Because I got --

1 received some kind of thing from AHEC, like a
2 brochure with a bunch of warnings. The thing is a
3 lot of people throw generalizations around and
4 things that I'm not sure how backed up some of the
5 statements that some of my fellow citizens say.
6 I'm not sure the validity because I hear a lot of
7 things back and forth.

8 And some of it, I think, is just kind of
9 like -- I don't know. I want more information,
10 more facts. You know, like, because people say,
11 oh, don't eat, you know, fruits. And they've done
12 studies where, you know, toxins don't go into
13 fruits. So I want to know like, one, you know, how
14 does it affect plants or vegetables.

15 And the other is about the disclosure to
16 renters. Because there is always this talk about
17 homeowners, but Gainesville is 50 percent college
18 students. This whole city it's like, 50 percent
19 college students. And a lot of people also that
20 have graduated can't afford it, rent and so forth.
21 So what kind of protections are there for renters,
22 you know, for that kind of stuff. So those are --
23 I want to know that. So there is no comment on
24 either of those issues.

25 MR. MILLER: Can we get contact information?

1 BRIAN STANDON: I want to encourage everyone
2 to keep it brief. Because people are saying two
3 hours isn't enough. I work full time, I'm
4 exhausted. I had to force myself to come here.
5 All right.

6 MS. SMOUT: We need to get your information.

7 MS. PHILSON: You can give it to her right
8 there. Thank you.

9 ROBERT PEARCE: Rick is going to help me set
10 up a diagram here before I start talking. My name
11 is Robert Pearce, that's P-E-A-R-C-E.

12 AUDIENCE MEMBER: Speak into the mike,
13 please.

14 ROBERT PEARCE: My name is Robert Pearce,
15 that's P-E-A-R-C-E. The single issue I want to
16 comment on relates to the on site soils outside the
17 consolidation containment area, which is the green
18 area on the plan view diagram. The remedy for the
19 most part merely specifies covering this area with
20 two feet of topsoil. The remedy specifies
21 excavation and removal only in hot spots where
22 certain contaminants cause leachability criteria to
23 be exceeded, which is threatening ground water.
24 But it does not specify excavation and removal
25 where direct contact criteria are exceeded. Less

1 soluble contaminants, such as dioxin, would remain
2 in place.

3 Dioxin is widely distributed across the
4 surface of a site and at concentrations sometimes
5 hundreds of times higher than even commercial soil
6 cleanup target levels. In my opinion, simply
7 covering over these types of contaminants at these
8 concentrations with two feet of topsoil will not
9 sufficiently protect human health and the
10 environment for the thousands of years the remedy
11 must remain effective.

12 Additionally, EPA reuse directives state that
13 remedies for Superfund sites should accommodate the
14 future land uses desired by the community wherever
15 practicable. The local land use authority, the
16 Gainesville City Commission, has indicated it wants
17 a site that will attract and be conducive to mixed
18 use development with strong emphasis on a
19 residential component and with as few institutional
20 and engineering restrictions as possible.

21 With high concentrations of contamination
22 just below the surface, both the environmental and
23 psychological constraints would tend to limit reuse
24 options, reduce flexibility of design, and inhibit
25 the kind of redevelopment the community wants.

1 Whereas the contaminated soils within the
2 containment area, which is the blue area on the
3 diagram, are such of nature and at some depths that
4 it would be impracticable for them to be excavated
5 and removed, the vast majority of contamination
6 outside the containment area lies within the top
7 several feet of soil and is of such a nature that
8 it can be excavated and at least moved into the
9 consolidation area where it can be safely and
10 permanently bound. This would leave the remaining
11 two thirds of the site in very clean condition and
12 at depth. This is very important towards reducing
13 the stigma associated with the site, which is
14 crippling the general health of the entire
15 neighborhood.

16 And such a cleanup would open the site up for
17 a variety of choices with regards to redevelopment,
18 not just in the short term but over the course of
19 many generations into the future. Such a remedy
20 would be practicable and cost effective, especially
21 in the long term. It would be significantly more
22 protective of human health and the environment and
23 it would be in better alignment with EPA reuse
24 directives.

25 In conclusion, for everyone's long term

1 benefit, the on site vados (sic.) zone soils
2 outside the consolidation area should meet not only
3 leachability criteria, but also at minimum
4 commercial SETL direct contract criteria before
5 being covered over with topsoil. Thank you very
6 much.

7 CORINDA O'STEEN: I'm Corinda O'Steen I
8 live -- my property joins the Koppers site where
9 they put a four foot deep on one end, a six foot
10 deep on the other end, an eight foot across holding
11 pond. Since that pond has been put in there since
12 '06 -- they came out and put the pond in the very
13 day my husband died. He grew up in this
14 neighborhood. He went to school here, he worked
15 here, and he died here. I have five birth defect
16 children, I have ten birth defect grandchildren,
17 and three great grandbabies.

18 When they come out and they take the soil off
19 of everybody's yards that want to go through and
20 having that soil removed from their property and
21 they dump it on that site, all of that toxin is
22 going to come right back across the fence and right
23 on top of me. My house is full of toxins. My yard
24 is full of toxins. You can't even get anything to
25 grow in my yard anymore. My husband farmed that

1 property. He ate, he slept in it, it was in their
2 clothes.

3 It causes all kinds of cancer. It causes all
4 kinds of birth defects. It causes all kind of
5 nerve damage. I have grandchildren that were born
6 without organs and children -- I went down through
7 the list, my husband did, we just took a yellow
8 marker and marked through them. Some had more than
9 others.

10 And I don't want them to take six inches of
11 soil off of my property, I don't want them to take
12 two foot of soil off my property because it's so
13 contaminated. I want them to purchase my property.
14 And they should purchase every property that is all
15 around that site because they are still -- I've
16 talked to young kids everyday that's moving into
17 this neighborhood and they're not telling them.
18 They're saying, well, you're near the site, but you
19 don't have anything to worry about. One young
20 girl, I said, these lots are 50 foot wide and
21 100 feet deep. I said I don't have a college
22 decree, but your house is big enough, it's on two
23 lots. The next house is on two lots and the next
24 house is on two lots. And I think a fourth grader
25 can figure up that's 300 feet from the corner and

1 there is a well on the other side of that fence. I
2 said how close do they claim that you're not near
3 the site?

4 And EPA, they fought here for ten years to
5 try to get the EPA help us put the fence up around
6 that property. And you know how the fence got up
7 there? It's because I went to Atlanta, went into
8 the office after they sent somebody out here and
9 they came back and told me that it wasn't worth the
10 money to put the fence up. And I told them, I said
11 I'm moving back to the neighborhood, I'm taking
12 three small children in that neighborhood but one
13 pole falls on one of them it will cost them more
14 than that fence will cost. That's how that fence
15 got around there.

16 Everybody's kids have played over there have
17 died. My neighbors have all died. Everybody that
18 has worked over there has died. And they keep
19 giving ya'll all of this false information and
20 people moving in and out of here. And it's just
21 like he said, there are students that move in and
22 out of this neighborhood everyday and they have no
23 idea that that -- we even watched them bury the
24 stuff in the sixties.

25 And why should we come in put all this money

1 in our homes and then they destroy our homes and
2 don't want to pay for what they've done to us.
3 It's not fair. We have worked, we have paid our
4 taxes, we have done and taken care of the things
5 we're supposed to do. When we get to our age, we
6 should be able to have a decent place to live that
7 is clean inside and out.

8 And I'm like this young gentleman here, I
9 like to work in my yard, I like to raise food in my
10 yard. You can't do it in my yard. You can't even
11 do it in the flower pots. You can't even do it on
12 my back porch anymore. I have a closed in back
13 porch, it's like a hot house. You can't even do it
14 there. The stuff will not grow. It will not
15 produce fruit.

16 And they should be out here with signs all in
17 this neighborhood, this is a contaminated area,
18 drive slowly, don't roll down your windows, and
19 keep traveling.

20 MS. PHILSON: Okay. Ya'll, I just want to
21 make a quick administrative note. Again, it's
22 7:20. We've got 40 more minutes. Again, that's
23 the end of this meeting, not the end of the public
24 comment period. If you don't want to make a
25 comment or you feel, you know, you got to get home,

1 take care of your kids have supper, my colleague,
2 L'Tonya is going to walk through. She's got note
3 cards, she's got pens.

4 So if you would like to write your comment
5 out and leave it with her with me, with Cheryl,
6 with my colleague, Scott, please feel free to do
7 so.

8 AUDIENCE MEMBER: Will you please introduce
9 the three of you to everyone who came in late.

10 MS. PHILSON: Sure. My name is Caroline
11 Philson, I work for the EPA. I'm a staff attorney
12 for this particular site.

13 MS. SMOUT: Charley Smout, U.S. Department of
14 Justice, and Scott Miller is our remedial project
15 manager.

16 MS. PHILSON: And L'Tonya Spencer is our
17 community involvement coordinator. So the three of
18 us work for EPA, Cheryl works for the Department of
19 Justice. Sorry, we should have reintroduced
20 ourselves. So if you need to talk with us after
21 the meeting -- but again you can put your comments
22 on the record. The public comment period is open
23 until the 15th of March.

24 This is meeting we had so you can make your
25 comments on the record without writing them down.

1 If you're running low on time or concerned about
2 being able to get to the mike, please feel free to
3 do that. Thank you.

4 JOHN DAVIES: Hello, my name is John Davies.
5 I never took chemistry in high school or college,
6 so I'm not sure -- I need some clarification about
7 something. I've heard a lot about dioxins. I
8 would also like to know about PCB's. Are they in
9 the soil, too? Are you going to be monitoring for
10 cleanup of PCB's as well as dioxin, assuming
11 they're not the same thing as dioxin?

12 MS. PHILSON: Yes.

13 SANDRA WATTS KENNEDY: Hi, we haven't met
14 before, my name is Sandra Watts Kennedy. And I
15 want to say in the State of Florida the residential
16 soil standard for dioxins is seven parts per
17 trillion. Anything above that is considered
18 non-protective, yes.

19 Now, I've heard some officials say that the
20 insides of our contaminated homes are not eligible,
21 they're not to be considered because there is no
22 set criteria as there is for residential soils.
23 Well, isn't it just commonsense that if seven parts
24 per trillion is on the verge of too much outside
25 that, anything in the hundreds, in the thousands,

1 as well as anything seven or up is too high and is
2 not protective of our children and our families?
3 That's just commonsense. And perhaps a little
4 compassion and commonsense would help these
5 residents out a whole lot.

6 For example, my family's home was
7 independently tested by the laboratory that holds
8 the patent on dioxin testing and has won numerous
9 awards and EPA uses their methodology. You don't
10 get much above more credible than that. Our homes
11 averaged over 400 parts per trillion. They were
12 higher -- I'm very emotional about this. A lot of
13 these people are very emotional here tonight with
14 good reason.

15 Okay. There are homes in Times Beach,
16 Missouri, there over 2,000 homes were moved. Many
17 of those homes were not as contaminated as some of
18 the homes here, and yet we don't qualify. Do we
19 have a special gene that protects us and our
20 children from dioxins? Come on.

21 Also, Pensacola, they've moved nearly 400
22 homes now. And, again, many of those homes are not
23 nearly as contaminated as ours are. And kudos to
24 that community because they have never given up.
25 They didn't take the rod as a sign that they should

1 give up when it was not protective. They didn't
2 take the consent decree when that went by as a sign
3 that that should stop. They kept moving, they kept
4 up their activism and they've been making gains
5 over the years. Oh, their blood, sweat, and tears.
6 And we need to do the same here.

7 So why -- based on this information, why is
8 our community, why our families are not worthy of
9 relocation. We want our toxic homes to be
10 purchased by the polluter, Beazer East and Koppers
11 so that we can live our lives in a cleaner
12 environment and hope that our children will be born
13 healthfully. The miscarriages, the stillbirths,
14 the birth defects that Ms. Corinda was telling you
15 about, it's all true.

16 And none of us are here because we're here
17 for pleasure. We're here because this is life and
18 death to us. And bureaucracy and protecting the
19 polluter's dollars over our children's lives,
20 leaving a ticking time bomb out here by burying the
21 contamination on the site so that future
22 generations can look back and at us and say what
23 were they thinking while they're undergoing their
24 pain and their anguish. It's wrong.

25 And your plan is not protective of the

1 aquifer. That's a major concern that residents
2 have here that affects everybody that drinks from
3 that Murphy well field or who has a well going into
4 that aquifer.

5 There's been arsenic was discovered as well
6 as other chemicals coming from Koppers underneath
7 the Kopper site. In 2003, it went out on the
8 associated press and it's not any less now. If we
9 had it then, what do we have now? Nothing has been
10 done to prevent this. And the language in the
11 consent decree speaks vaguely about minimizing. It
12 doesn't say that they're going to prevent it, they
13 can't prevent what's already happened. They're not
14 going to stop it entirely -- they're not going to
15 stop it from continuing to migrate into our aquifer
16 with this plan.

17 So we want our aquifer protected for all of
18 the residents. We want the polluter to buy out our
19 toxic homes so residents can stop suffering and
20 start living again.

21 SHARON SHEETS: Good evening, I'm Sharon
22 Sheets. I live in my same house on 30th Avenue and
23 6th Street three doors from the Koppers site and in
24 direct blow by direction from all the heavy
25 equipment activity that used to be on the land.

1 I moved there in '77. In 1980, I bought my
2 house without knowing that Koppers was a Superfund
3 site. I became aware in 1983. At that time, I had
4 organic gardens in the back yard, big extensive
5 garden, chickens in the back yard. And I was
6 concerned none of the soil testing was being done.
7 I didn't have the money to have it done. But I
8 assumed and that makes a you know what of me to
9 assume anything.

10 But when the soil was finally tested, found
11 that it is at least in one area of my yard, I'm not
12 sure about all the others, but my dioxin level is
13 ten times higher than the State toxic level. The
14 State toxic level is seven parts per trillion, mine
15 is 70 parts per trillion.

16 And my neighbors are concerned, some of my
17 neighbors their soil was never tested. And they
18 actually said that they were never asked to have
19 their soil tested and they're concerned of course
20 now.

21 And I'm wondering should I decide to have my
22 soil, my property remediated, what happens to my
23 neighbors and the blow by, and is their property
24 going to be tested adequately. What's going to
25 keep anybody on our street as everything that's

1 going on on the Koppers property from coming over
2 to us if people do not move out of their homes, if
3 we're not relocated en masse. And, again, I'm
4 praying for the option of having my property bought
5 from me.

6 I'm on multiple respiratory meds. And in two
7 weeks I'm having a pulmonary function test. My
8 body is falling apart. My immune system is shot.
9 I have my own breathing machine, you know, I sit
10 there getting this with the machine going, I've got
11 the nebulizer. I'm on multiple meds, so I know
12 that I have respiratory problems.

13 I'm 62, so I've been in my place more than
14 half my life. And I really do feel like a lot of
15 my health problems can be attributed to the Koppers
16 site. People say, well, why don't you just move.
17 I'm an old hippie and I tell you, I have less than
18 \$20 in my bank account right now. I can't afford
19 to move. I shouldn't have to move unless somebody
20 buys me out and then I have enough money to
21 relocate myself.

22 So here we go. And another question is when
23 the work is done on Koppers, will there be activity
24 going on in the neighborhoods to, I guess -- will
25 our dead end streets be opened up to provide access

1 onto the Koppers site when all of this stuff is
2 going on and if it's going -- we don't know whether
3 our cleanup is going to be before or after or just
4 what. We've not been notified of any of that, so
5 we're in limbo. An absolute limbo.

6 So I'd like an answer to that, wondering what
7 to expect and when to expect. How long will we
8 have to wait before we have some knowledge of what
9 to expect.

10 MS. PHILSON: Ya'll, I'm going to beg your
11 indulgence as I sit down and answer this.
12 Remember, this meeting tonight is about the consent
13 decree. Of course, there is no cleanup if there is
14 no consent decree if we don't move forward with
15 that document or some version of that document.

16 That is what obligates the responsible party
17 to spend the money and do the work and puts EPA in
18 a position to hold their feet to the fire and
19 mandate that they do action. When the consent
20 decree is entered, if, but when the consent decree
21 is entered by the Federal judge, then there is a
22 remedial design.

23 The remedial design gets into the details and
24 nitty-gritty of what will happen on the cleanup and
25 when. There is specific work plans, there is

1 deadlines within the consent decree for when those
2 work plans are due. They have to be submitted by
3 the responsible party within a certain amount of
4 time, approved by EPA and approved or disapproved
5 for the resubmit. All of that happens according to
6 a schedule that's laid out mostly in Appendix B to
7 the consent decree which is salve statement of work
8 after the remedial design is complete, then
9 remedial action starts.

10 Remedial action is a little different from
11 remedial design because engineers in a room writing
12 on paper or coming up with a plan is different from
13 workers on the ground with boots on doing the work.
14 And so as things need to be fine tuned because you
15 find climatic conditions, different geologic
16 conditions to be different than you initially
17 perceived, there is room in there for you to adjust
18 as necessary to the environment to the climate
19 you're working in at the time.

20 So there is a process -- I'm sorry, I can't
21 answer your question about whether the site will be
22 open, whether there will be streets going through
23 what is the former facility, I don't know all of
24 the redesign plans for the site. But that's pretty
25 far down the road as we get into actually being in

1 a place where the site is remediated, the cleanup
2 is complete and then it's returned to a productive
3 use. It's privately owned, so what productive use
4 that will be what the redevelopment plan is, I
5 can't tell you at this time.

6 GEORGE POPOTTI: My name is George Popotti.
7 (sic.) I live in the historic section of
8 Gainesville along the Northeast Boulevard. If
9 citizens -- I think it's well believed that this
10 problem with exposure to these toxins occurs
11 primarily in the Stephen Foster neighborhood. And
12 living there in the Duck Pond area in the nineteen
13 nineties, I can tell you that it wasn't just
14 Stephen Foster.

15 Back when naphthalene was one of the
16 materials used in creosoting, you probably remember
17 that period when Koppers was using that, you could
18 smell the naphthalene. It smelled like moth-balls.
19 We never noticed it until one day, twice, actually,
20 in about a week, the prevailing winds blew the
21 aroma into the -- fingerprint precision, you know,
22 it's impossible to not recognize it -- into our
23 neighborhood.

24 And it was midnight on the second night that
25 I noticed this that I called up Koppers and I asked

1 them in the most -- I tried to catch the person
2 answering the phone off guard. I said, do you turn
3 your scrubbers off. And the guy stammered and
4 said, well, yeah. And I said why did you do that.
5 He said because I was told to do that. So that was
6 one of the linchpin arguments that Koppers used
7 trying to be, quote, trying to appear to be good
8 citizens in Gainesville.

9 That they always used -- this was argued in a
10 litigation by Gary Massey who owned the Gary Massey
11 Chevrolet -- that they were good citizens and
12 operated the facility properly. That was not true.
13 Polluters have a tendency to do what they want, how
14 they want it, to save money to profit. And they're
15 notorious in Ohio for turning their scrubbers off.
16 I know people who live up there. Anyway, I can say
17 that's anecdotal.

18 People in our neighborhood like to raise,
19 like to raise vegetables and fruits in their
20 gardens. And I'm alarmed when I see that because I
21 am -- if you could smell the naphthalene blowing
22 into your neighborhood, that could be sort of like
23 the canary indicating something had reached your
24 neighborhood, not just vapors, but particulates.

25 We all know -- well, meteorologists and

1 climatologists know that windblown minerals and
2 soil materials are blown across from the Sahara
3 Desert across the Atlantic and enrich the Amazon
4 basin in South America. Soil movement is
5 well-established. That's a long distance and
6 that's a well-established process. If it can cross
7 the Atlantic, winds can carry things a few miles,
8 which I'm fairly convinced occurred in our
9 neighborhood.

10 The class action litigants hired a very well
11 respected testing lab to test in the Duck Pond area
12 in a two or three mile radius. And they found high
13 levels of dioxin and other pollutants on the soil
14 outside the houses and in the houses with dust.

15 So I guess one of my questions is, what is
16 the EPA prepared to do regarding this issue that
17 I've just brought up. Because it doesn't just
18 affect Stephen Foster, theoretically it affects
19 Alachua, Gainesville, and Alachua County proper.
20 It all depends on the prevailing winds, how strong
21 they are and how sustained they are.

22 And as far as the specific remediation on
23 site, I'm concerned about the -- I cite to
24 geochemical stabilization. It's a product of a
25 proprietary product created by Beazers. They will

1 profit from its use. I find it -- I believe this
2 is the case. I find that, if it is true, very
3 objectionable.

4 And I also understand that this material in
5 carced geology, broken sedimentary fragmented
6 sedimentary rock formations will be very difficult
7 to guarantee over time since carced materials move.
8 Once you catalyze the stabilization material, it
9 becomes brittle, semi-brittle at least. How are
10 you going to guarantee that over time with movement
11 of materials, breakdown of sediments, that this is
12 not going to cause minute little cracks that over
13 time will reach the aquifer and our water field
14 very close by.

15 I'm also -- since this is a Department of
16 Justice overseeing -- there is oversight by the
17 Department of Justice, I'm concerned about --

18 AUDIENCE MEMBER: Hold the microphone.

19 GEORGE POPOTTI: I'm concerned about Region
20 IV's track record. There has been considerable
21 controversy regarding lax oversight over the years,
22 particularly in North Florida. The Journal of
23 Environmental Science and Technology summarized a
24 grand jury finding in 2004 that Region IV EPA and
25 the Florida DEP had failed to protect citizens of

1 Escambia County from horrific pollution in their
2 drinking water.

3 At three Superfund sites, Region IV
4 administrators had approved natural attenuation as
5 the remedy of choice. In one case, the grand jury
6 charged that Conoco Phillips, the corporate owner
7 of the Agrigo chemical company Superfund site
8 avoided paying for cleanup by using a consultant
9 who persuaded Government officials to approve
10 natural attenuation.

11 Escambia County's drinking water comes from a
12 shallow aquifer as does ours. It's obvious that
13 Superfund sites in close proximity to water sources
14 deserve extra special precautions and speedy
15 remediation. We have had neither.

16 Region IV has also disregarded Florida DEP's
17 failure to comply with the Clean Water Act. In
18 March 8th of 2004, circuit Judge L. Ralph Smith
19 wrote that Florida DEP's agreement to allow
20 voluntary regulation of dairies was tantamount to
21 delegating its duties to the industry it is
22 required to regulate. I expect Region IV to
23 continue to fail in its duties if it lives up to
24 its previous performance.

25 So I just hope that there is sufficient

1 departmental -- Department of Justice oversight in
2 this issue.

3 KATE ELLISON: My name is Kate Ellison, and I
4 tried to read the statement of work and I had a few
5 questions. With the deed restrictions that are
6 anticipated, what future uses will be wise or
7 advisable for the containment area? The 30 acres
8 is mostly solidified and covered with an
9 impermeable cover, does that mean a layer of
10 concrete or asphalt?

11 The purpose is to keep the water out, so it
12 has to be smooth and bare, doesn't it? Not used
13 even for grass or bushes which need to hold water
14 and have roots that could cause cracks. Outside
15 the containment area, but still on site, what
16 future uses are possible, meaning wise or
17 advisable.

18 Could a more thorough cleaning of on site
19 areas be required within the remedial plan outside
20 the containment zone? It just seems like leaving
21 the contaminated soil there covering it with,
22 quote, clean soil is asking for trouble. Within
23 the scale of the whole remedy, scraping a larger
24 area prior to bringing in new soil would surely be
25 more efficient in the long run.

1 For the neighborhood properties that are not
2 remediated but have been tested above the
3 acceptable levels, will they stay zoned
4 residential? If so, how restrictive will their
5 deeds be? What prevents runoff from these yards
6 into the remediated neighborhood areas?

7 Will there be deed restrictions on nearby
8 businesses along 6th Street and 23rd Avenue, et
9 cetera, that are currently zoned for business or
10 mixed use? I don't think people remember what is
11 written on a deed years after it changes hands.
12 Some people or businesses just don't care.

13 Regardless of what gets written on a deed,
14 digging will occur. And with digging,
15 recontamination. Doesn't this mean that depth and
16 thoroughness of the initial cleanup is absolutely
17 critical? Will there be deed restrictions on City
18 property as the north end of the Koppers site?
19 Will the remediated yards have deed restrictions
20 after they're remediated? As far as the on site
21 cleanup, what will be done with the trees? Will
22 they be removed, or will they be treated like trees
23 in people's yards, or will they have two feet of,
24 quote, clean soil piled up around them or what.
25 What happens if a big tree blows over in a

1 rainstorm, pulling up roots from a depth greater
2 than two feet with all that water pooling around
3 it? Won't the contour of the storm water drainage
4 cause significant digging, exposing possible buried
5 contaminants? What provisions are there for this
6 type of soil disturbance? What happens to the soil
7 dug up during the contouring?

8 Will the buffer zones that surround the site
9 be cleaned up, especially the long sides of the
10 sites bordering the neighborhood and also the old
11 railroad track on the east side where there are
12 other property owners besides Beazer or the
13 neighborhood. I think you can see how everyone --
14 how very much everyone here wants to make the
15 cleanup the best possible by both incorporating the
16 concerns we have. And I hope our concerns that are
17 raised tonight will be incorporated and also
18 staying on track to begin the work plan as soon as
19 is practical. Thank you for listening.

20 KIM POPEJOY: My name is Kim Popejoy. I'm
21 president of Protect Gainesville Citizens. On the
22 25th, we had an open meeting that was designed to
23 allow people to formulate questions, which have
24 been submitted to the EPA and will also be
25 submitted to DOJ. I just want to focus on four of

1 them that are particularly addressed to the
2 attorney of DOJ and the EPA. And since we rarely
3 get to the opportunity to speak with you guys, I
4 would like to give you the opportunity to have this
5 mike back and answer these very specific questions
6 that citizens ask.

7 One of them is what kind of release will
8 Beazer be allowed to require from homeowners
9 granting access for remediation. There is concern
10 about whether or not -- what is the level of rights
11 post-remediation that a citizen is going to give up
12 by granting access.

13 The second question is why has EPA not
14 brought Beazer's parent companies into the consent
15 decree. And the third question is, is it true that
16 the statute of limitations for the City filing suit
17 against Koppers expires on March 1st, 2013?

18 So the three questions -- one of the -- what
19 kind of release, the parent companies, and the
20 statute of limitations.

21 MS. PHILSON: Did you not say you had four?

22 KIM POPEJOY: The fourth one is more
23 budgetary.

24 MS. SMOUT: Okay. We're not asking -- there
25 is not going to be any release that we're going to

1 be requiring anyone to give to Beazers. That's
2 not -- is that --

3 MR. MILLER: It means access.

4 MS. SMOUT: I mean, yeah, let me clarify.
5 Let me make sure I understand your question. I
6 understood your question to mean some type of legal
7 release such that they couldn't go after Beazer if
8 they got their property cleaned up, isn't that the
9 nature of your question? Okay.

10 The only thing we're asking for is access.
11 We're asking for access. And people -- we're
12 asking for people to give Beazer access so that
13 his -- their contactors can come on and clean up
14 the site. So in terms of a release of, you know,
15 legal rights, the only thing we're asking for is
16 the right to have access to get on the property.
17 We're not asking for any other type of release.

18 And what was your second question?

19 KIM POPEJOY: Parent companies.

20 MS. SMOUT: Parent companies. Okay. I
21 haven't looked at this for a while. As I
22 understand it, Beazer East is the owner of the
23 property. And they have -- the sufficient --
24 typically, the only time that would be an issue
25 maybe, is if there was an inability to pay or

1 something like that. But they, you know, keep in
2 mind now, I realize that they're the mean, horrible
3 big corporation. I get that. Okay. I understand
4 that. But keep in mind that that big, mean
5 horrible corporation is the only entity that has
6 cleaned up this site so far and has agreed to clean
7 it all up in this consent decree. So, you know, we
8 don't have reason to include the parent. They are
9 the owner of the property. They are liable under
10 certain laws, Section 107(a)1. And so that's why
11 we didn't include them in terms of -- I'm going to
12 hand the mike over to Caroline.

13 MS. PHILSON: Actually, there is -- if you
14 look in the performance guarantee section of the
15 consent decree, there actually is a reference to
16 Hanson LE when we talk about how they will actually
17 guarantee the funds, which at this time we're
18 putting in approximately -- not approximately,
19 we're putting it written into the consent decree
20 it's 55 million dollars.

21 Not only is Beazer responsible for that, but
22 in the section where they talk about how they will
23 make good on that promise -- because you just can't
24 say, sure, we'll pay you. You have to put up some
25 money you have to put up some earnest money or some

1 bond or some kind of enforceable financial document
2 to that. There is a reference to their parent
3 company, Hanson, LE, within that section of the
4 consent decree.

5 KIM POPEJOY: The third question that the --

6 MS. SMOUT: The statute of limitations for
7 claims that would be brought by the City? That
8 would not be something I would be privy to unless
9 they chose to tell me that information. I'm not
10 sure why I would know that.

11 KIM POPEJOY: The question is what are the
12 triggers the statute of limitations for filing suit
13 against Koppers in this particular --

14 MS. SMOUT: You're talking vis-a-vis the
15 Federal Government or vis-a-vis the City.

16 KIM POPEJOY: I was talking about going to
17 either State or Federal court and filing suit. And
18 the question that the citizens brought forward was
19 that there was an understanding that there was a
20 statute of limitations of four years that was
21 triggered by the closing of the plant. So do you
22 know anything about a statute of limitations or any
23 triggers for that statute of limitations?

24 MS. SMOUT: I don't know about it vis-a-vis
25 claims with the City, which is -- I think what

1 you're talking about here. I mean, it's not an
2 issue, vis-a-vis, the Federal Government because we
3 settled with them. In terms of the City, I don't
4 have any knowledge of that.

5 KIM POPEJOY: And since you did give me the
6 fourth one back, I'm actually going to change it.
7 What I want to do here is just encapsulate what
8 you've probably heard more than any other single
9 statement, which is the concern about loss of
10 economic value. So the question I want to pose is
11 how will DOJ and the consent decree insure that
12 homeowners will, in their remediation zone, will be
13 made economically whole? That's why we call you
14 the Department of Justice.

15 MS. SMOUT: Wow, I wish I had that power.
16 That would be so awesome. I would love to have
17 that power. Unfortunately, I only have the
18 power -- actually, I don't have any of the power,
19 it's EPA. EPA delegated the power to the
20 Department of Justice. The only power we have is
21 power that's given to us by statute. And the only
22 statute that we have that's applicable to this
23 situation is Superfund. The only authority we have
24 under Superfund is to go and clean up the site.
25 I -- there is no provision. I wish I had that

1 provision. I wish we could offer that provision
2 and enforce that provision. That's simply not what
3 Congress has given us the authority to do. So, I
4 guess, write your congressman.

5 I'll give it to you. Are you coming back?
6 Some people haven't had a chance --

7 MS. PHILSON: If you have a comment, we've
8 hired the court reporter through 8:00. Julia, I
9 apologize for imposing on you. We're just going to
10 take people in line if you absolutely have to have
11 a comment.

12 MS. SMOUT: But he's already spoken once and
13 none of these people haven't spoken at all.

14 MS. PHILSON: If you wouldn't mind, sir, just
15 yielding the mike to --

16 GABRIEL HILLEL: I would like to ask two
17 questions then I'll stop.

18 MS. PHILSON: If you have a comment, please
19 get in line. We're going to take the people in
20 line. If you have a comment, get in line now
21 because when these are done, we're going to wrap up
22 here. Thank you.

23 MS. SMOUT: Please move forward. Please be
24 quick. Other people haven't had an opportunity.

25 GABRIEL HILLEL: Gabriel Hillel, first

1 question is there anything in the consent decree
2 that would allow for compensation to families to
3 move out. That's the first question. The second
4 issue is who were the attorneys who represent these
5 folks in developing the consent decree. By that I
6 mean, there were attorneys that have been
7 representing the City that I will tell you that
8 99 percent of the people in this room are aware of
9 their presence.

10 MR. ROTHSTEIN: Hello, I'm Paul Rothstein, I
11 am one of the co-league counsel in the class action
12 litigation against Beazer, Koppers and these other
13 entities.

14 And one question that I have is, what would
15 be the arrangement to have EPA have another one of
16 these formats? One, given the fact that we heard
17 from the initial speaker that he was unable to
18 access the documents. This format seems to be
19 constructive that just filing written comments,
20 there is not feedback. So if another one of these
21 meetings could be had with enough time for people
22 in the community to review these documents, it can
23 be possibly much more productive for information to
24 the community members.

25 So my first question is, what would be the

1 process to have the EPA have another public meeting
2 so residents could actually look at the documents
3 and ask questions? That's one question.

4 MS. PHILSON: We -- the public comment period
5 opened on the 13th or 14th of February. The public
6 comment belongs to the Department of Justice. It
7 runs 30 days. I have to tell you, we did our
8 letter best to have this meeting tonight. Because
9 as you may be aware, there is a sequester coming
10 unless Congress gets its act together. We
11 literally have to be home tomorrow because we won't
12 have travel funds as of the first.

13 So at this time, I'm afraid we cannot promise
14 you anything because, actually, we're facing
15 furloughs ourselves. And our ability to plan out
16 of office travel -- one, this meeting is not
17 required. We wanted to have this meeting because
18 we wanted to give the people in this community the
19 opportunity -- it's not a requirement of the
20 statute or of DOJ. It's something the EPA wanted
21 to do because we think it's part of our public
22 participation in being involved and active in this
23 community and coming and hearing your concerns.

24 As I said before, this is not the only
25 opportunity to comment. The public comment period

1 is open through the 15th. You can email us, you
2 can write us, you can make your comments on the
3 record here this evening. But at this time,
4 unfortunately, just because of our Government
5 situation, I'm just not in any position to promise
6 that we're be able to come back because we really
7 don't know what the next two weeks, three weeks,
8 four weeks holds as far as our ability to have any
9 travel anywhere.

10 And I really am just being frank with you
11 about the situation involving your Government. We
12 all got emails last night about how many furlough
13 days we're going to be required to take. It would
14 be dishonest for me to say to you, sure, we'll set
15 up another meeting, we'll come back next week. I'm
16 simply in no position to guarantee that that's
17 possible simply not at this time.

18 MR. ROTHSTEIN: My next question if it's
19 unlikely we're going to have a subsequent meeting,
20 when this matter goes in front of the judge -- and
21 I expect that it would be Judge Mickle that will
22 have returned to the bench at that point -- will
23 the citizens and residents of this community be
24 allowed to make comments to the Judge, or is that
25 hearing going to be just attended to by the

1 responsible parties and the EPA?

2 MS. PHILSON: That I don't know. Because,
3 one, there has been no hearing called for, and,
4 two, if there is a hearing, then it will be called
5 by the judge. So, again, your comments have an
6 effect. If that's something you want to see
7 happen, you're entirely within your rights to ask
8 for that. But we don't have any control over
9 whether there is a hearing or not or whether --

10 With very limited exception, hearings -- the
11 Federal District Court are not closed. You can't
12 take your cell phone you can't take your weapon.
13 But if there's a hearing in Federal District Court,
14 that's America's business. The courthouses are
15 open to the public.

16 MR. ROTHSTEIN: And with this type of consent
17 decree, is it typical for the -- for a hearing to
18 take place, or is it typical in the District Court
19 on a consent decree for just the Court to review
20 the papers without an open hearing?

21 MS. SMOUT: This is the most atypical case
22 that I've had in 25 years and I was on the Love
23 Canal. So I can't answer that. All I can tell you
24 is that you can request a hearing and, you know, we
25 want won't object to a hearing. We will attend the

1 hearing. We -- what I'm required to do, okay, is
2 to receive all of your comments, to review all of
3 your comments, to respond to them in the form of a
4 brief that I file with the Court.

5 And the Court sue sponte, I don't know if you
6 know this, but there has been cases where the Court
7 itself has wanted a hearing based on the review of
8 the comments. So the Court could ask for the
9 hearing, the public could ask for a hearing. You
10 know, so there's various avenues as was mentioned
11 by Caroline. You're not cut off. This isn't a
12 Star Chamber. This is completely public court,
13 public hearing, Federal court. So it's something
14 that you would need to include in your comments.
15 But this is a very atypical case, so I don't know.

16 MR. ROTHSTEIN: My last comment, I had spoken
17 with Scott Miller earlier and he had indicated that
18 he would provide to me tomorrow the date that the
19 wood treatment facility at Koppers stopped
20 operating. I was just confirming that for the
21 public record, that that would be okay.

22 MR. MILLER: I want to restate that and say
23 that I'm going to provide it to my counsel who is
24 going to provide it to you.

25 MS. PHILSON: We're traveling tomorrow. I'll

1 be back in the office on Friday. I don't want you
2 to think that I didn't do it because I don't do it
3 tomorrow.

4 MS. SMOUT: We need to focus on the decree,
5 so please go ahead.

6 PAT KLEIN: Pat Klein, I'm the technical
7 adviser -- I don't want to be on the camera. All
8 right. All right. I'll go on camera -- technical
9 adviser for the community group. Typically, what
10 we do are review documents and we look at the
11 circle process and consistency and things like
12 that.

13 For this consent decree I did review it from
14 the standpoint of standard language I also reviewed
15 it for the statement of work and the rod being
16 consistent with what was there before. The rod has
17 been two years ago. It was one that we didn't
18 agree with everything in it and you've heard those
19 comments. It was approved by the State and other,
20 you know, headquarters and things like that.

21 There are conceptual things in the record of
22 decision that are kind of broad, and there is a lot
23 of diverse opinions and concerns about a whole
24 series of questions that are not going to be
25 resolved until we start seeing remedial design

1 documents.

2 For example, on the offsite remediation, we
3 have a performance standard. You have to address
4 properties that are above the Florida standard.
5 That is a stringent standard at all the sites we've
6 worked at, you know, it would be a criteria that
7 would be used. It's consistent with what we would
8 do at other places and more stringent than many
9 other places.

10 But the devil is in the details in terms of
11 is there sufficient sampling. Is it sufficient
12 depth, did we get it -- you know, did we do it
13 correctly, implement it correctly. It's going to
14 be a really stressful period for people as this
15 goes on what can we do during this process. Until
16 we go through these documents -- I'm really hoping
17 we get to see the documents as we go through.

18 The same is true on the on site. I think
19 there are things that could improve that aren't
20 necessarily changing the big picture, but actually
21 would help us do a better job, maybe facilitate
22 some of the concerns that we're raising, that
23 Robert was raising and things on site.

24 We have to review the data and GRU and
25 others. If we don't trust this ISGS, it's the

1 pilot test and the data we have to see it's right
2 and there has to a contingency plan. Conceptually
3 we get that, but we have to see the data. It's a
4 question of ongoing things.

5 I've been in this business for decades and
6 the other people in the group. I've never seen a
7 comment period, a public meeting associated with a
8 consent decree. So I find this to be really
9 unusual. Even in terms of the kinds of comments we
10 make. My biggest concern right now is if we can
11 work through some of these other issues considering
12 the other comments, it's been two years where there
13 have been some things going on on site, but we have
14 to get that consent decree signed so that we can
15 actually get the documents that have the meat that
16 we can actually continue the debate and get the
17 remediation going as soon as possible.

18 GINA HAWKINS: Hi, I'm Gina Hawkins, and I
19 just have a quick question and that is if you can
20 remind us of the date that this site was entered as
21 a Superfund site, when it made the priority list.
22 And, also, just give us your professional opinion
23 of when you expect that the plan, as it stated
24 right now, would actually be complete to the point
25 where just further monitoring would be done.

1 MS. PHILSON: Thank you. I can speak to the
2 first part of that. This site went onto the
3 national priorities list in 1983. When it will be
4 completed, that's just conjecture. I just can't
5 say. Obviously, you have to have a consent decree
6 in place in order to start remedial design in order
7 to take the remedial action. How long the actual
8 cleanup is anticipated to take, Scott, do you have
9 a ballpark? Will we start offsite first and then
10 work -- or is the work simultaneous?

11 MR. MILLER: Well, it's dependent on the
12 consent decree being entered.

13 MS. PHILSON: Standard lawyer answer, it
14 depends, coming from a technical expert.

15 MR. MILLER: Sorry. Well, as Caroline
16 mentioned, it does depend on when the consent
17 decree is entered. We expect that, assuming all
18 things going well, that off site remediation will
19 begin towards the end of 2013 or the beginning of
20 2014, followed by the on site piece over time. We
21 expect that at this point the entirety could be
22 done within five years.

23 MARTHA MILLER: I'm Martha Miller, and we
24 are -- I -- all right.

25 MS. SMOUT: Could you repeat your name,

1 Martha? Martha Miller. Well, how will -- let's
2 see. How will this information that we're giving
3 you tonight be presented to the judge? Is it going
4 to be condensed, or is it going to get everything
5 we say is what I was told to ask and stuff.

6 Okay. Yeah, just to repeat what we mentioned
7 a little bit earlier, by regulation, I'm required
8 to, and indeed am glad, to attach to the brief and
9 support of the motion to enter if that's what we
10 decide to do. I attach everything that we receive.
11 And so since this is a public meeting that's
12 verbal, we'll be attaching a copy of the
13 transcribed discussions and questions we've had
14 tonight.

15 We'll also include every single document I
16 get, written comment from you guys, emails,
17 whatever I receive from the public will be attached
18 to the brief that I file and will be addressed in
19 the brief that I file. Does that answer your
20 question?

21 MARTHA MILLER: I think so, yes.

22 MS. SMOUT: Thanks.

23 MARK VENSKE: My name is Mark Venske.
24 Earlier tonight, ma'am, you offered to divulge to
25 us your email address. Could you do that at this

1 point?

2 MS. SMOUT: It's -- I'll say it then I'll
3 spell it. It's C-H-E-R-Y-L dot S-M-O-U-T at
4 U-S-D-O-J dot G-O-V. So it's C-H-E-R-Y-L, dot,
5 S-M-O-U-T -- c-H-E-R-Y-L, dot, S-M-O-U-T, at
6 U-S-D-O-J, dot, G-O-V. Thanks. C-H-E-R-Y-L, dot,
7 S, M as in Mike, O-U-T, at, little at sign,
8 U-S-D-O-J, Department of Justice, dot, G-O-V. Are
9 those all the comments? We've one more?

10 FRED MURRAY: Hi, my name Fred Murray, I'm
11 the assistant City Manager for the City of
12 Gainesville. I just want to put it on the record
13 the City intends to submit written comments to the
14 Department of Justice and to the U.S. EPA.

15 MS. SMOUT: Okay. I think this concludes our
16 meeting.

17 MS. PHILSON: Again, I just want to thank you
18 for your time and passion and attendance and
19 participating with us. Again, the public comment
20 period is not closed. You have until the 15th.
21 Please get your comments in to us, we read them
22 all. Thank you.

23 (Thereupon, the meeting was adjourned at
24 8:17 p.m.)

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CERTIFICATE WITH ACKNOWLEDGMENT

STATE OF FLORIDA)
COUNTY OF ALACHUA)

I, Julia E. Griffin, a Shorthand Reporter, certify
that I was authorized to and did
stenographically report the foregoing meeting
and that the transcript is a true record.

Dated this 1st day of March, 2013.



Julia E. Griffin
Court Reporter

**Consent Decree
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